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Indoctrination:
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Each campus in the University of Massachusetts system is required to have "a program of educational activities designed to enlighten faculty, administrators, staff and students with regard to ...ways in which the dominant society manifests and perpetuates racism." A report on "race and gender enrichment" at Tulane University declares that "[r]acism and sexism are pervasive in America and fundamentally present in all American institutions." Pennsylvania State University's disciplinary manual condemns America as "a society deeply ingrained with bias and prejudice." A report by the New York State Commissioner of Education's Task Force on Minorities opened by claiming that intellectual and educational oppression has characterized the culture and institutions of America and the European world for centuries. This oppression, we are told, has caused "the miseducation of all young people through a systematic bias toward European culture and its derivatives." If those so-called derivatives include individual liberty, an economic system that has produced a standard of living unparalleled in world history, freedom to worship God, a system of justice based on the rule of law, and a culture that believes in the sanctity of human life and is virtually the only culture interested in learning from other cultures, I say "Guilty as charged."

The so-called PC movement is geared toward re-directing and ultimately revolutionizing this society to the benefit of certain political groups. It is ultimately repressive and totalitarian. The movement is efficient in one sense—it is focused most aggressively at the institutions that educate our children, America's future leaders. Lenin and Mao also knew which institutions to capture in order to change the direction of society.

It appears that the PC police are now invading our junior high schools as well as the halls of higher education. Last March, 75 students at Huntley Middle School in DeKalb, Illinois, staged a walkout and press conference, demanding that their principal resign and that two students be punished for conducting a survey demonstrating supposedly "racist" attitudes among their classmates. The demonstrators branded the two girls who conducted the survey as racists not for the results but for participating in the project at all. It worked. The principal has stepped down and will be reassigned as a teacher and the school board has determined, though will not announce, the "proper punishment" for the two girls. Yes, and Ben Hart was bitten for delivering the *Dartmouth Review*, too.

Examples of PC activity abound. They include the lie of "multiculturalism," which seeks not to expand but to contract the study of cultures. It seeks to replace, not to supplement, the study of Western culture. It is odd that the PC thugs claiming to promote multiculturalism would trash the only culture—Western culture—that is truly interested in learning from and about others.

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Dis-Inviting Critics. Then there are the dis-invitations of speakers who hold politically incorrect views. In March, the Association of American Universities held its annual conference of public relations directors from its 56 member schools here in Washington. Since I had been involved in the debate over policies banning politically incorrect speech on university campuses for over three years, I was invited to participate on a panel discussing political correctness. Then I was dis-invited by Peter Smith, the overall conference director, because of the “overly ideological reputation” of the Free Congress Foundation. Now I suppose it does take the public relations crowd to turn “politically incorrect” into “overly ideological,” but I was prevented from speaking on PC because I was not PC. Interestingly, as *National Review* pointed out, Peter Smith was once press secretary for Senator Joe Biden, chairman of the Senate Judiciary Committee, before whom I lobby on behalf of conservative judicial nominees.

Then there is Smith College’s list of manifestations of oppression. Smith tells us that this list will grow “[a]s groups of people begin the process of realizing that they are oppressed.” I think it’s more accurate to say “as they are told that they are oppressed.” The list so far contains at least ten kinds of oppression, including heterosexism, or the oppression of those of sexual orientations other than heterosexual. Students can be guilty of this by failing to acknowledge the existence of these non-hetero individuals. It is unclear just how this affirmative acknowledgment must occur, or how students at Smith can determine each others’ sexual orientations in order to properly acknowledge them without also violating their privacy or being guilty of some other kind of oppression.

PC has also invaded the accreditation process. The Middle States Association of Colleges and Schools is the accrediting agency for schools in New York, Pennsylvania, Maryland, the District of Columbia, and other states. They have begun conditioning accreditation on what they call “appropriate diversity” with regard to age, gender, race, and ethnicity among the students, faculty, and governing board of an institution. Middle States is up for renewal of its designation as a recognized accrediting agency. Last November, I presented third-party testimony opposing renewal to the committee that advises the Secretary of Education on this matter. I represented several organizations, including the Free Congress Foundation. The committee first voted to recommend renewal, then changed its decision to recommend deferral. Secretary of Education Lamar Alexander accepted this latter recommendation and deferred renewal on April 11. Yesterday, he appeared before the House Subcommittee on Human Resources and Intergovernmental Relations, chaired by Ted Weiss, to answer for his crime. He said “If you are asking whether the Federal Government should require racial or ethnic or gender balancing at colleges and universities as a condition of receiving federal funds, my answer is no.”

Robust Exchange. Nothing less than individual liberty and the future of America itself is at stake here. In 1967, Justice William Brennan wrote for the Supreme Court that “[t]he classroom is peculiarly the ‘marketplace of ideas.’ The Nation’s future depends upon leaders trained through wide exposure to a robust exchange of ideas...[rather] than through any kind of authoritative selection.”

Ironically, that case, *Keyishian v. Board of Regents*, arose at the State University of New York at Buffalo, where I attended for my law school degree, master’s, and Ph.D. At that very same school, exactly two decades later, the first example of the most potent weapon in the PC arsenal came to national attention. In October 1987, the law school faculty at Buffalo unanimously approved a document titled the “faculty Statement Regarding Freedom, Tolerance, and Prohibited Harassment.” Drafted by my First Amendment professor, this policy explains the basis for the entire PC movement. It declares that “[b]y entering law school...each student’s absolute right to liberty of speech must also become tempered...by the responsibility to promote equality and jus-

tice." It went on to prohibit statements or remarks in several categories, including those "based on prejudice or group stereotype."

In my work in this area since, I have seen at least 20 different categories of speech prohibited in the many institutional gag rules that now exist at two-thirds of America's colleges and universities. This list includes economic status, position or function, Vietnam-era veteran status, and marital status. Buffalo prohibited politically incorrect statements wherever and however they occur. Brown University bans unintentional expression of political incorrectness, and the undergraduate student government at Catholic University here in Washington sought last November to ban "carelessly directing demeaning...expressions" in eight different categories.

At some schools, entire subjects are simply off limits. At New York University Law School, the moot court board initially selected as an exercise a case involving the custody rights of a divorced lesbian mother. The problem was withdrawn because arguments against giving her custody would be insensitive to homosexuals. Last March, the Federalist Society at Buffalo Law School, which I founded in 1984, invited me back to debate a professor about current civil rights proposals in Congress. No less than 12 professors in a row refused to debate me on that subject.

Teaching Intolerance. It is clear from this brief overview, and everything that you have heard and read in recent months, that freedom of thought and liberty of speech are under direct attack in institutions of higher education in this country. The irony of this happening in educational institutions should become a greater sense of urgency to do something about it because students taught intolerance will become leaders who practice intolerance. What can be done about it?

The most obvious thing is to speak. There's no better way to defend the right to freedom of speech than to exercise it. This must include our national leaders. President Bush launched a salvo in his May commencement address at the University of Michigan. People do not know what is happening at schools like Buffalo. They need to know, not only so that they can make more informed choices about which school for their children to attend, but so that they can join the debate and defend liberty more generally by defending intellectual freedom in school in particular.

A second approach is to get alumni informed and involved. Censorship policies are a very recent phenomenon. In just five years, they have spread to more than two-thirds of America's colleges and universities. Most graduates can easily remember a day of greater tolerance and open-mindedness. I did a radio talk show yesterday on PC and a woman who had attended college in Greenwich Village years ago called and told us of the good old days when schools offered a variety of views and — dare I say it — had a "diverse" student body. People back then, she said, celebrated that variety and took advantage of it. They did not seek to enforce conformity.

Two factors may limit the potential effectiveness of getting alumni energized to combat PC. The first is that, as Charles Sykes has so well documented in his books *Profscam* and *The Hollow Men*, faculties rather than administrators or boards of trustees are in complete control of most schools. Faculties, especially the ones who hate hierarchy but love tenure, are farthest removed from alumni and care little about what they think. Second, many schools are less dependent on private alumni giving than in years past. This is large part due to the shift from teaching to research in many universities and the corresponding dependence on research grants, particular from government.

The third approach applies to students at public schools, and that is to bring a lawsuit under the relevant provision of a state or the federal Constitution that protects freedom of speech. The code at the University of Michigan was struck down and those at Buffalo Law School and the University of Wisconsin have also been challenged. The First Amendment exists to protect free-

dom of speech and these campus censorship policies are textbook examples of prior restraint. When I challenged the gag rule at my law school, I first consulted the New York Civil Liberties Union and liberal commentator Nat Hentoff. Their opinion was the same. These gag rules are classic examples of unconstitutional restrictions on pure speech. Needless to say, they were more than a bit surprised that my First Amendment professor had drafted the speech code at my law school.

The fourth approach is legislative. Some who are most concerned about the PC movement and its shut-down of American higher education nevertheless immediately insist that government should stay out of it and do nothing. This view seems to assume that government is doing nothing right now. But it is. Government, at both the federal and state level, invests tens of billions of our tax dollars on higher education each year. Everything I have said so far demonstrates that, right now, the government is subsidizing the PC movement. It should stop.

No dollar can be spent on two things at the same time. Government, just like you and I, must make substantive choices about where to spend our money. It can either subsidize the marketplace of ideas or it can subsidize authoritative selection. And remember, nothing less than America's future depends on which path is chosen. Therefore, I reject the simple notion that government should simply do nothing or that a legislative approach is necessarily inappropriate.

Two bills are currently circulating in Congress and each represents a radically different approach. The first, H.R.1380, was introduced as the "Collegiate Speech Protection Act of 1991" by Congressman Henry Hyde on March 12. It would amend Title VI of the Civil Rights Act of 1964 to provide a civil lawsuit for students at private schools similar to that available under the Constitution to students at public schools.

The second bill, to be introduced as the "Freedom of Speech on Campus Act of 1991" by Senator Larry Craig [the bill was introduced as S.1484 on July 17], would amend Title IX of the Education Amendments of 1972 to withhold federal financial assistance from any school with a formal disciplinary code that punishes students who utter politically incorrect speech.

These bills differ in at least four ways. First, they view the problem differently. The Hyde bill assumes that there is no problem until someone's discreet legal rights have been violated in such a concrete way that they can actually overcome the legal rules of standing and get into court. Yet this rarely happens. At Buffalo Law School, few if any examples of the PC crowd enforcing its dogma were so clear and could be documented and described in such an obvious manner that our legal rights were violated. Nevertheless, the educational environment remained hostile, politically incorrect views were increasingly forced out of the marketplace, and the party line was enforced.

The Craig bill views the problem not as a violation of individual legal rights but as an oppressive educational environment. An intellectual Gulag can exist but not offer an opportunity to meet the rigid requirements of a lawsuit. Thus the issue is not legal rights but educational policy and it is appropriate to focus not on the civil rights laws but on the education laws.

Expensive Litigation. The second way in which these bills differ is their chances for success. A lawsuit under the First Amendment has always been available to students in public schools. To date, however, only one gag rule has been eliminated through litigation while they have at the same time sprung up at hundreds of schools from coast to coast. Litigation is expensive, time-consuming, and colleges and universities have sizable legal departments and enormous budgets. In most cases, all they need do is create delays until students graduate. The Hyde bill offers no brighter prospect for success since it is based on the very same approach.

The Craig bill, on the other hand, offers a chance for immediate success. Though the mechanism of certifying compliance with the requirements of Title VI takes time, passage of this bill would send an immediate message that if schools want to partake at the public trough, they will have to address campus problems in ways that are in the public interest. They will not be able to treat intolerance with censorship policies.

The third difference is the possibility of unintended consequences. There is a reason by Nadine Strosses, president of the American Civil Liberties Union, stood beside Congressman Hyde when he introduced his bill in March. The Hyde bill is a litigation bill and the ACLU litigates for a living. By focusing broadly on the civil rights laws, the Hyde bill offers the potential of affecting more than just the educational context. This was one reason why the *Washington Times* editorially opposed the Hyde bill immediately after its introduction.

The Craig bill amends the education laws, not the civil rights laws. It only covers institutions of higher education and only those that have formal disciplinary codes that punish students for uttering politically incorrect speech.

Finally, the Hyde bill expands government activity in education where the Craig bill reduces that activity. The Hyde bill opens up an entirely novel area for litigation that never existed before. The Craig bill is geared toward getting government to stop some of what it is already doing — subsidizing the PC movement.

Incidentally, this is increasingly an issue at the state level as well. Certainly, in a time of widespread state budget crises, legislators at that level want to take a look at how public dollars are spent. Senator Bill Leonard in California introduced a campus free speech bill. It recently passed the Senate by a vote of 30-3 and its prospects in the Assembly look equally as bright. Since California is a hotbed of PC activity on campuses from Stanford to Berkeley, this may be a sign of things to come.

Marketplace of Ideas. To conclude, government must get out of the indoctrination business. Billions of our tax dollars are being used to subsidize quota systems, sensitivity training, rigged admissions standards, doctored curricula, and institutional censorship policies. Our tax money is being used to subsidize authoritative selection rather than the marketplace of ideas in American higher education. Yet the marketplace of ideas is the only appropriate model for higher education in this country. It is ironic that as Eastern Europe and the Soviet Union strive to throw off the shackles, the elite in America's school would be working to impose them.

The Hyde bill misperceives the problem, has little chance for success, offers the potential for serious unintended consequences, and actually expands the government's role in education. The Craig bill perceives the problem correctly as an oppressive educational environment, offers an effective way to address this problem, has little potential for unintended consequences, and will actually serve to get government further out of the educational sphere. I think this legislative approach must be part of an overall strategy to combat the PC movement in American higher education.

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